

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14791, of Chevurah Tifereth Israel to amend Condition No. 2, limiting the hours of operation of the Board's Order dated August 7, 1986 in Application No. 14422, of Chevrah Tifereth Israel, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.41 to use the second floor of the subject premises as a child development center for 48 children and 8 staff in an R-1-B District at premises 7701 - 16th Street, N.W., (Square 2739, Lots 36, 37 and 38).

HEARING DATE: May 18, 1988
DECISION DATE: May 18, 1988 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located on the northeast corner of the intersection of 16th and Juniper Streets, N.W. and is known as 7701 - 16th Street, N.W. The site is located in an R-1-B District.

2. The site is rectangular in shape with a frontage of 165 feet along 16th Street and 148.89 feet along Juniper Street. The site's total area is 24,566.85 square feet. A 15 foot public alley adjoins the site on the east side.

3. The site is currently improved with a two story "L" shaped brick synagogue building known as Congregation Tifereth Israel. A paved six space parking area is at the rear of the building and is accessible from the alley.

4. The R-1-B District extends to the north, east and south of the site. Most of the buildings in the area are single-family detached houses, but a few are devoted to institutional use. No private dwelling faces the synagogue building. The Hanafi Moslem house and another synagogue are directly across 16th Street from the building and are located in an R-1-A District.

5. On August 7, 1986, the Board granted Application No. 14422 for a special exception to allow a child development center in an R-1-B District. The Board's approval was subject to the following conditions:

1. The number of students shall not exceed forty-eight. The number of staff shall not exceed eight.
2. The hours of operation shall not exceed from 8:30 A.M. to 1:00 P.M. Monday through Friday.
3. A minimum of two parking spaces shall be provided on-site for the exclusive use of the subject facility during its hours of operation. The parking spaces shall be paved and striped.
4. All dropping-off and picking-up of children shall occur on Juniper Street.
5. The play area shall be located on the southwest corner of the site and shall be fenced with green chain link fencing.
6. The applicant shall designate and continuously maintain a community resident to be liaison between the community and the school.

6. The applicant wishes to extend the center's hours of operation until 4:00 P.M., Monday through Friday, to better serve neighborhood residents.

7. The Service Facility Regulations Administration of the Department of Consumer and Regulatory Affairs reported by a memorandum dated April 20, 1988 that the subject facility could meet all licensing requirements as set forth in 29 DCMR Chapter 3.

8. Children will arrive and leave the school through the entrance to the building on Juniper Street. A school staff member will meet each child at the curb and escort the child to the classroom.

9. Most children will arrive between 8:30 A.M. and 9:15 A.M. and depart in the early afternoon. Few vehicles travel or park on Juniper Street at these times.

10. The parking area has room for six automobiles, and the Zoning Regulations require one space for every four employees. The applicant agreed to mark two spaces as reserved for use by the center.

11. The proposed change would have little impact on local traffic or parking because few children would remain at the center during the extended hours. Most of these children will walk home.

12. The on-site playspace is located in the notch of the "L" shaped building, which shields it to the north and east. The playspace is bounded on the west and south by 16th and Juniper Streets, respectively, but is shielded from

the road by two existing mature trees. The playspace is not adjacent to any residence and is surrounded by a black coated chain link fence. The Board finds that students at the center will spend the great majority of time indoors and that no more than 24 children will ever be outside at one time.

13. There is no other child development center within 1,000 feet of the center.

14. On February 18, 1988, the Board referred the case for review and report to the Office of Planning, the Department of Public Works, and the Department of Consumer and Regulatory Affairs.

15. The Center is in the jurisdiction of Advisory Neighborhood Commission (ANC) 4A, which reported in a letter dated May 10, 1988, that it had voted to recommend the denial of the application because of the applicant's failure to comply with conditions 5 and 6 of the BZA Order dated August 7, 1987. The ANC found the applicant had installed a black fence instead of the green fence required by Condition 5 and failed to appoint the liason required by Condition 6. The Board concurs with the ANC's findings as they relate to the fence, but finds that the applicant only failed to notify the ANC that a liason had been appointed.

Having given the ANC report "great weight" in its decision, the Board nevertheless believes the applicant had no intention to disregard the conditions and is entitled to the relief requested. The Board also finds that conditions 5 and 6 should stand as previously approved.

16. The applicant will provide ANC-4A with formal notice as to the identity of its liason.

17. In a memorandum dated May 8, 1988, the Office of Planning (OP) recommended conditional approval of the application. The OP reported that the center has no adverse impact on noise or traffic and creates no objectionable or unsafe condition. The OP also found that the center meets all applicable code and licensing requirements, provides adequate off-street parking and a shielded play area, and is not within one-thousand feet of any other child development center. The OP recommends that the Board limit its approval to one year to allow timely review of the applicant's compliance with condition 6. The Board concurs with the OP's recommendation but finds that the applicant's intent to keep the ANC informed as to the identity of its liason obviates any reassessment of the center's impact on the surrounding neighborhood.

CONCLUSIONS OF LAW AND OPINION:

The applicant seeks a special exception to extend the operation of an approved child development center beyond those hours permitted by the BZA order dated July 7, 1987. To qualify for the exception, the applicant must show that it meets the requirements of Sub-section 8207.2 and Paragraph 3101.41 of the Zoning Regulations.

Based on the foregoing Findings of Fact, and the evidence of record and the conditions hereinafter imposed, the Board concludes that the applicant has satisfied the requirements of Paragraph 3101.41. The applicant has shown the proposed center will meet all applicable code and licensing requirements, create no unsafe or objectionable traffic condition, provide sufficient off-street parking, and have no objectionable impact on neighboring property. No other center is located in the same block or within one-thousand feet of this facility.

The Board also concludes that the applicant has met the requirements of Sub-section 8207.2. The applicant has shown that the center will be consistent with the general purpose and intent of the Zoning Regulations and will not adversely affect the use of the neighboring property in accordance with the Zoning Regulations and Maps. The Board has accorded to the ANC the "great weight" to which it is entitled. It is therefore ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. The number of students shall not exceed forty-eight. The number of staff shall not exceed eight.
2. The hours of operation shall not exceed from 8:30 A.M. to 4:00 P.M. Monday through Friday.
3. A minimum of two parking spaces shall be provided on-site for the exclusive use of the subject facility during its hours of operation. The parking spaces shall be paved and striped.
4. All dropping-off and picking-up of children shall occur on Juniper Street.
5. The play area shall be located on the southwest corner of the site and shall be fenced with green chain link fencing.
6. The applicant shall designate and continuously maintain a community resident to be liaison between the community and the school.

VOTE: 4-0 (Elliott Carroll, Paula L. Jewell, Charles R. Norris, and Carrie L. Thornhill to grant; William F. McIntosh not present, not voting).